Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. H.B. 151**

DATE: **June 5, 2007**

STATUS: **As Reported by House Financial Institutions, Real Estates, and Securities**

SPONSORS: **Reps. Mandel and Jones**

LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**

CONTENTS: **To specify procedures for divesting investment holdings of public investors in directly held publicly traded companies conducting specified types of business in the Islamic Republic of Iran and the Republic of Sudan and to prohibit public investors from investing in such companies; and to authorize the Ohio Public Deferred Compensation Board, the alternative retirement program, and the Ohio College Savings Program to offer a terror-free investment option**

State Fiscal Highlights

STATE FUND	FY 2007	FY 2008	FUTURE YEARS
General Revenue Fund – Treasurer of State, Attorney General			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Possible increase	Possible increase	Possible increase
Other State Funds – Bureau of Workers' Compensation, Ohio Retirement Systems, Ohio Retirement Study Council, Ohio Deferred Compensation Board, and Ohio Tuition Trust Authority			
Revenues	Possible decrease	Possible decrease	Possible decrease
Expenditures	Possible increase	Possible increase	Possible increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- The bill requires public investors specified by the bill to make best efforts to identify and list all publicly traded companies involved in "scrutinized business operations" in Iran and Sudan, and to provide written notices and reports. The provisions may increase the administrative costs of the Treasurer of State, the Bureau of Workers' Compensation, and the five state retirement systems – School Teachers Retirement System (STRS), Public Employees Retirement System (PERS), School Employees Retirement System (SERS), Highway Patrol Retirement System (HPRS), and Ohio Police and Fire Pension Fund (OP&F) – to comply with the requirements of the bill.

- The requirements that selected public investors divest their "direct holdings" in the publicly traded companies with "scrutinized business operations" in Iran and Sudan within a specified timeframe would require upfront transition costs, increase transaction costs, and reduce investment income of the state's five retirement systems, which in turn could negatively impact existing unfunded liabilities. However, the bill allows the public investors to end any divestment requirement under certain circumstances specified by the bill.

- The bill authorizes the Ohio Public Employees Deferred Compensation Board, alternative retirement programs, and the Ohio College Savings Program to offer a terror-free investment option to its contributors. The reporting requirement associated with this provision may increase administrative costs.

- The bill authorizes the Attorney General to enforce the bill's provisions, which may increase the agency's administrative and operating costs.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill requires all public investors as specified by the bill[1] to make their best effort to identify and list all publicly traded companies involved in "scrutinized business operations"[2] in Iran and Sudan, for which they have direct or indirect holdings or could possibly have such holdings in the future, within 90 days after the effective date of this bill. The bill also requires the public investors to send a written notice to all companies on the list of their identified status and the specified requirements of this bill.

The bill specifies that the public investors must encourage a company that has "inactive business operations" to continue to refrain from initiating "active business operations" in Iran and Sudan. If any of the companies identified on the list has "active business operations" in Iran or Sudan, the public investors must inform the company of its scrutinized company status and the requirements of the bill. The holdings in this company may be divested within 90 days after the notice is sent if a clarification on its Iran-related or Sudan-related activities is not received or the company does not cease or convert its scrutinized business operations to inactive business operations.

The bill specifies that 90 days after the initial creation of the lists[3] or immediately after a company is reinstated on the specified lists, the public investors must divest their "direct holdings"[4] in the publicly traded companies with "scrutinized business operations" in Iran and Sudan. Any company listed on either the active or inactive activities in Iran and/or Sudan lists that ceases its scrutinized business operations will be removed from the particular lists unless the company resumes its scrutinized business operations.

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[1] The bill defines "public investor" as the Treasurer of State, the State Board of Deposit, the Workers' Compensation Oversight Commission, the Administrator of Workers' Compensation, and the board of each of the five state retirement systems.

[2] "Scrutinized business operations" means business operations that have resulted in a company that meets certain criteria specified by the bill.

[3] Approximately 180 days after the effective date of the bill.

[4] The bill defines "direct holdings" as all stocks or bonds of a company held directly by a public investor or held in an account or fund of which the public investor owns all of the shares or interests.

The bill also requires the public investors to notify asset managers investing on their behalf to remove any actively managed fund containing any "indirect holdings" in the identified companies that have "scrutinized business operations" in Iran and Sudan and replace it with a similar fund, within 12 months after the initial creation of the lists or immediately after a company is reinstated on the specified lists.

Furthermore, the bill requires the public investors to file a report including lists of Iran-related or Sudan-related scrutinized companies to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives, the Ohio Retirement Study Council (ORSC), and the Workers' Compensation Council, and to make the lists available to the public, within 30 days after the lists are created and within 30 days after each annual update. In addition, the public investor must provide an annual report including a summary of certain correspondence, selected lists, and specified progress related to the bill to the same specified leaders of the Ohio General Assembly and councils, and copies to the United States Presidential envoys to Sudan and Iran.

However, the bill allows the public investors to end any required divestment and reinvest in the listed companies with "scrutinized business operations" in Iran and Sudan if clear convincing evidence shows that the value of all assets under management by the public investor becomes equal to or less than 99.5% or at least less than 50 basis points of the hypothetical value of all assets under management by the public investor assuming no divestment related to this bill had occurred.

The bill authorizes the Ohio Public Employees Deferred Compensation Board, alternative retirement programs, and the Ohio College Savings Program to offer a terror-free investment option to its contributors. The bill also requires the Ohio Deferred Compensation Board and the Ohio Tuition Trust Authority to submit a report on their efforts to identify and provide a terror-free investment option to the President of the Senate and the Speaker of the House of Representatives on an annual basis.

Moreover, the public investors shall cease all requirements and authorizations specified in the bill if the federal government takes certain actions specified by the bill.

The bill authorizes the Attorney General to enforce the provisions of the bill. The bill also relieves a public investor of liability if it complies "in good faith" with the requirements of the bill. The bill also allows the board of the retirement systems and the Bureau of Workers' Compensation (BWC) to retain legal counsel if the Attorney General maintains a civil action against them for a breach of fiduciary duty to the public fund under their control.

The bill may increase the expenditures of the Treasurer of State, the Bureau of Workers' Compensation, and the five state retirement systems – School Teachers Retirement System (STRS), Public Employees Retirement System (PERS), School Employees Retirement System (SERS), Highway Patrol Retirement System (HPRS), and Ohio Police and Fire Pension Fund (OP&F)-to comply with the requirements of the bill. However, the bill has no direct fiscal impact to the local governments.

The limitations on investments by public investors under the bill may slightly reduce diversification and investment criteria for public investors, but it may not affect their ability to maximize returns on investment. However, the limitations may impact the state's five retirement systems' investment returns, which in turn could negatively impact existing unfunded liabilities. Portions of the retirement systems' portfolios are invested in multinational companies.

Furthermore, if any of the public investors have to divest any investments in those companies, there would be upfront transition costs that need to be paid. In addition, the public investors would bear an undetermined loss of investment income. The transaction costs, loss of investment income, market risk associated with divestment, and reduced investment diversification resulting from the bill are undetermined as the lists of "scrutinized companies" may shrink and/or expand over time.

The magnitude of the fiscal effect due to the required divestment would be limited due to the provision in the bill that allows the public investors to end any divestment requirement under specified circumstances.

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